



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2012-0785; FRL- 9755-4]

**Approval and Promulgation of Air Quality Implementation Plans;
Pennsylvania; Allegheny County Incorporation by Reference of Pennsylvania's Control of
NOx Emissions from Glass Melting Furnaces**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Pennsylvania State Implementation Plan (SIP) submitted by the Pennsylvania Department of Environmental Protection (PADEP). The SIP revision adds a regulation to control nitrogen oxides (NOx) emissions from glass melting furnaces to the Allegheny County Health Department (ACHD) Rules and Regulations. The ACHD regulation incorporates by reference the Pennsylvania regulations and related definitions for controlling NOx emissions from glass melting furnaces. The SIP revision is a regulation that will reduce emissions of NOx from glass melting furnaces. EPA is approving this SIP revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on [insert date 60 days after publication in the Federal Register] without further notice, unless EPA receives adverse written comment by [insert date 30 days after publication in the Federal Register]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number **EPA-R03-OAR-2012-0785** by one of the following methods:

- A. www.regulations.gov. Follow the on-line instructions for submitting comments.
- B. E-mail: mastro.donna@epa.gov.
- C. Mail: **EPA-R03-OAR-2012-0785**, Donna Mastro, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.
- D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. **EPA-R03-OAR-2012-0785**. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact

information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On June 25, 2012, PADEP submitted to EPA a revision to the Allegheny County portion of the Pennsylvania SIP. The SIP revision seeks to add Section 2105.101 (Control of NO_x Emissions

from Glass Melting Furnaces) to ACHD's Rules and Regulations, Article XXI, Air Pollution Control to incorporate by reference 25 *Pa. Code* Sections 129.301 through 129.310 (Control of NOx Emissions from Glass Melting Furnaces) and related definitions at 25 *Pa. Code* Section 121.1 of PADEP's Air Pollution Control Act. This regulation controls NOx emissions from glass melting furnaces. The reduction of NOx emissions also reduces visibility impairment and acid deposition.

On August 22, 2011 (76 FR 52283), EPA approved into the Pennsylvania SIP 25 *Pa. Code* Chapter 129, Sections 129.301 through 129.310 that included NOx content limits from glass melting furnaces and approved related amended definitions at 25 *Pa. Code* Section 121.1. ACHD is incorporating by reference the same provisions in 25 *Pa. Code* Sections 121.1 and 129.301 through 129.310 in order to regulate NOx emissions from glass melting furnaces in Allegheny County. Further details of Pennsylvania's regulation for the control of NOx emissions from glass melting furnaces can be found in Docket ID No. **EPA-R03-OAR-2011-0286** at www.regulations.gov.

II. Summary of SIP Revision

The Pennsylvania SIP revision adds Section 2105.101 to ACHD Rules and Regulations, Article XXI, Air Pollution Control to incorporate by reference Pennsylvania's control of NOx from glass melting furnaces promulgated under the Air Pollution Control Act at 25 *Pa. Code* Sections 129.301 through 129.310 and related definitions at 25 *Pa. Code* Section 121.1. The incorporation by reference provides that Section 2105.101 shall be applied consistent with the provisions of Pennsylvania's control of NOx emissions from glass melting furnaces. Any

additions, revisions, or deletions to the glass melting furnaces regulation by Pennsylvania shall be incorporated into Section 2105.101 and are effective on the date established by Pennsylvania regulation. By incorporating this regulation, ACHD removes any uncertainty regarding enforceability of NOx limits on glass melting furnaces in Allegheny County by ACHD. Included in the Air Pollution Control Act at 25 *Pa. Code* Sections 129.301 through 129.310 are explicit references to the authority of local air agencies including Allegheny County to regulate NOx levels from glass melting furnaces. By incorporating this regulation, an additional copy verifying ACHD's authority will be found in Article XXI.

III. Final Action

EPA is approving the Pennsylvania SIP revision that incorporates by reference Pennsylvania's control of NOx emissions from glass melting furnaces into ACHD Rules and Regulations, Article XXI, Air Pollution Control. EPA's review of the SIP revision submitted by PADEP on June 25, 2012 indicates it will strengthen the SIP requirements, result in reductions of NOx emissions, and meet all applicable Federal regulations and the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's Federal Register, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on [insert date 60 days from date of publication in the Federal Register] without further notice unless EPA receives adverse comment by [insert date 30 days from date of publication in the Federal Register]. If EPA receives adverse comment, EPA will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect. EPA will address all public comments in a

subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication

of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the incorporation by reference of Pennsylvania’s control of NOx emissions from glass melting furnaces into ACHD Rules and Regulations, Article XXI, Air Pollution Control may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

November 7, 2012
Dated:

W. C. Early, Acting
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart NN--Pennsylvania

2. In § 52.2020, the table in paragraph (c)(2) is amended by adding a heading for Subpart 10 and an entry for Section 2105.101 after the entry for Section 2105.90 to read as follows:

§ 52.2020 Identification of plan.

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(c) ***

(2) ***

Article XX or XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/ §52.2063 citation
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Part E – Source Emission and Operating Standards				
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Subpart 10 – NOx Sources				
Section 2105.101	Control of NOx Emissions from Glass Melting Furnaces	4/3/12	[Insert Federal Register publication date] [Insert page number where the document begins]	New subpart and section are added.
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[FR Doc. 2012-28831 Filed 11/28/2012 at 8:45 am; Publication Date: 11/29/2012]